

SERVICE DATE – LATE RELEASE AUGUST 31, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 265X)

NORFOLK SOUTHERN RAILWAY COMPANY–ABANDONMENT EXEMPTION–
IN CALHOUN COUNTY, AL

Decided: August 31, 2006

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 5.8-mile line of railroad between milepost 55.3-N at Fort McClellan, and milepost 61.1-N, at Anniston, in Calhoun County, AL. Notice of the exemption was served and published in the Federal Register on February 2, 2006 (71 FR 5734-35). By decision and notice of interim trail use or abandonment (NITU) served on March 3, 2006, the proceeding was reopened and a 180-day period was authorized for the City of Anniston (the City) to negotiate an interim trail use/rail banking agreement with NSR for the right-of-way involved in this proceeding.¹

On August 24, 2006, the City filed a request for an extension of the negotiating period. The City states that negotiations have stalled over suitable appraisal services for valuation of the corridor, together with structural assessments required for these negotiations. On August 25, 2006, NSR filed a letter consenting to the extension. Additionally, NSR requests an extension of the consummation notice filing deadline until 60 days after the expiration of the extended NITU negotiating period (until April 28, 2007).²

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. An extension of the negotiating period will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d).³

¹ The decision and notice also made the exemption subject to several environmental conditions and a public use condition. The public use condition expires on August 31, 2006, and cannot be extended.

² Under 49 CFR 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings. Because the same provision permits the railroad to file a notice of consummation within 60 days after expiration of a legal or regulatory barrier, such as a trail use condition, it is not clear that NSR needs a separate extension of the deadline for filing a notice of consummation in this situation. In an abundance of caution, however, NSR's request for that extension will be granted.

³ See Rail Abandonments–Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

Accordingly, the NITU negotiating period will be extended for an additional 180 days from August 31, 2006 (until February 27, 2007), and the deadline for NSR's filing of a notice of consummation will be extended until April 28, 2007.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The City's request to extend the NITU negotiating period and NSR's request to extend the time to exercise the abandonment authority are granted.
2. The negotiating period under the NITU is extended for 180 days until February 27, 2007.
3. The authority to abandon must be exercised on or before April 28, 2007.
4. This decision is effective on the date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary